MULTIMEDIA UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

# FINAL EXAMINATION

**TRIMESTER 3, 2021/2022**

## EHM3106 – LAW FOR ENGINEERS

(ALL)

11 AUGUST 2022
9.00 a.m. - 11.00 a.m.
( 2 Hours )

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**INSTRUCTIONS TO STUDENTS**

1. This question paper consists of 5 pages including the cover page with 4 Questions only.

2. Attempt **ALL** questions. All questions carry equal marks and the distribution of the marks for each question is given.

3. Please write all your answers in the Answer Booklet provided.

**Question 1 (25 marks)**

(a) There is a case in Malaysia which involves three parties: a contractor company, a client and a labor union. The case takes place in a state and is about a building project that has to be delayed indefinitely. The cause of the delay has yet to be investigated thoroughly, but the cause is expected to be due to relations between the three parties. The delays have caused the client losses around RM150,000. The client is suing the contractor company for the delay. The circumstances of the case are expected to be such that, after investigations, it can be heard in either the Industrial Court or Sessions Court.

(i) Predict the possible cause(s) of the delay after the investigation. [5 marks]

*Note: The cause(s) must be associated with one or more of the parties involved, and the effect of each cause that led to the losses is described.* ***The cause(s) must also be strictly relevant to the answer for part (ii).***

(ii) With the details given in the question and the answer in part (i), consider which court is more suitable to hear this case if investigations show that there can be a hearing. [3 marks]

*Note: it must be one of the two courts; it cannot be both.*

(iii) The proceedings are expected to refer to previous similar cases that can be used as precedents. From the details given in the question and the answer in part (i), prepare a list of **at least two** criteria in searching for precedents. [3 marks]

*Note: The criteria must be about the similarities between this case and past cases.*

(iv) The case might not receive a hearing, i.e. the investigation reveals that there is no case. Predict an example of how this might be. [2 marks]

(b) There is a case involving a telecommunications (telecoms) pole. A flood had occurred in the area in which the pole had been providing coverage. A day after the flood has receded, the pole fell; it fell onto a person that happens to be passing underneath its line of falling. The person died in the incident. Aggrieved parties are accusing the telecoms company over this incident. The cause of the fall of the pole and the extent of the harm that led to the person's death have yet to be fully investigated.

(i) Assume that the investigations will reveal that there are enough facts for a case. Predict the findings that will arise from the investigations. [3 marks]

*Note: The findings must be about the cause of the fall of the pole, how the fall could have caused the person's death and the exact cause of death.*

**Continued...**

(ii) Depending on the answers in part (i), determine whether this is a criminal or civil case. [2 marks]

*Note: the answer must be one of the two types of case; it cannot be both. The answer must include the reason for the determination.*

(iii) Depending on the answers in part (ii), determine whether there can be a settlement for the case or not. [3 marks]

*Note: explain the answer by describing which party could or could not offer the settlement, and the reason for this.*

(iv) Assume that the case will be heard and a ruling will be delivered. Speculate how the ruling will affect similar cases in the future. [4 marks]

*Note: the ruling can be guilty or not guilty, and it must contain details on how to address such cases in the future.*

**Question 2 (25 marks)**

(a) The pre-requisites of a valid contract consist of five essential elements:
- Offer
- Acceptance
- Intention to create legal relations
- Consideration, and
- Capacity

(i) Briefly discuss the requirements for a valid contract. [12 marks]

(ii) State the way an offer may be rejected. [5 marks]

(b) Hillas bought some timber from the timber merchants Arcos Ltd. They purchased 22,000 units of timber, and the agreement also contained an option that they would be able to buy up to 100,000 units the next year at a discounted rate of 5%. The transaction took place in the first year, but the sellers refused to supply any wood in the following year, saying that the agreement was too vague. Hillas sued for breach of contract. Arcos Ltd. claimed that the agreement could not be valid because it required further agreement in the future.

Briefly discuss whether an agreement to enter into another agreement was an enforceable term of the first agreement. [8 marks]

**Continued...**

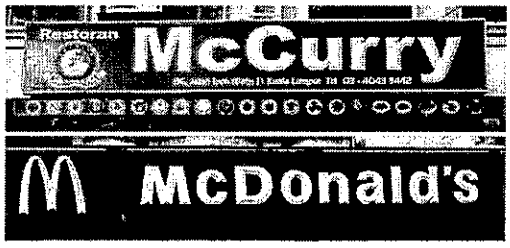
**Question 3 (25 marks)**

(a) List down the available Laws for IP protection in Malaysia. [5 marks]

(b) What is Copyright? How long is the duration of copyright protection in Malaysia? [6 marks]

(c) What are the three (3) essential requirements for obtaining a patent? [6 marks]

(d) The respondent, McDonald, is a well-known fast-food franchisor and has outlets around the world. The appellant runs a fast food outlet called 'McCurry Restaurant' which serves Indian and other Malaysian cuisine only. The respondent complaint that the appellant has passed off the respondent's business as its own by adopting and conducting business under the distinctive 'Mc' identifier for its own food and beverage restaurant.




Briefly discuss whether the use of the word 'McCurry' by the defendant amounted to a *passing off* the plaintiff's trade name to which goodwill is attached? [8 marks]

**Question 4 (25 marks)**

(a) There is a case in Malaysia which involves a dismissal. The employer is a metalworking factory. The dismissed employee was a machinist (i.e. machine operator). The employee is claiming wrongful dismissal. The employee claims that the employee's job has been rendered redundant by recently implemented automation that the employee claims to not know about. The employer has given notice of laying off the employee. The employee has refused the termination benefits and is demanding reinstatement. The machinist union that the employee is a member of is currently supporting the employee's claim. There is no other employee of the company that is making the same claim under the same circumstances. Thus far, these are the only facts that have been revealed; there may be others as the case is further investigated.

(i) Determine whether the Employment Act or the Industrial Relations Act apply here. [3 marks]

**Continued...**

(ii) Further investigation would focus on what employers intend to do with employees after implementing the automation. Assume **one fact** that will be revealed from this investigation. [2 marks]

(iii) Further investigation would focus on the claim that the employee does not know about the implementation of the automation. Assume **one fact** that will be revealed from this investigation. [2 marks]

(iv) From the facts in Q4(a)(ii) andQ4(a)(iii), predict the ruling that the court would make. [3 marks]
*Note: every fact must be used to justify the ruling.*
*Hint: depending on the combination of facts, the case can also be moot, i.e. not for the court to decide on.*

(v) Determine the awards, punishment and/or recommendations that the court would make after the ruling. [2 marks]

(b) There is a case involving advertising of engineering services that had been brought up to the Board of Engineers Malaysia (BEM).

(Note: At this time of writing, BEM's code of professional conduct states that an engineering practice shall not canvass or solicit services.)

The complaint is that an engineering company whose members are registered under BEM has an advertisement about their services. The complaint is brought forth by another company, which has produced **legitimate** documentation about the advertisement and is also registered under BEM. There may be other details as the case is investigated further.

(i) Assume that the case is investigated further. Predict further details about the advertisement. [3 marks]
*Hint: advertisements are intended to be made for specific audiences.*

(ii) Based on the answers for Q4(b)(i), determine the factors of relevance or irrelevance of the advertisement to the practice of engineering in Malaysia as regulated by BEM. [3 marks]

(iii) Based on the answers for Q4(b)(ii), assume the decision of the BEM panel that would hear this case. [2 marks]

(iv) Determine how the outcome of this case would affect the company that brought forth the complaint. [3 marks]
*Note: there must be a consequence for this company, positive or otherwise.*

(v) Suggest how this case can be a precedent for later similar cases. [2 marks]

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